

**REMARKS*****Comments on Amendments After Final***

Applicants respectfully request reconsideration and allowance of this application in view of the amendments above and the following comments.

At the outset, Applicants wish to address the showing required under 37 CFR § 1.116(a) regarding why the amendments above are necessary and were not presented earlier. According to MPEP 714.13 (Amendments After Final Rejection or Action, Procedure Followed - Action by Examiner), there are four grounds (cited as (A)-(D)) upon which the examiner may elect not to enter the applicants amendment. Each ground is addressed below:

(A) The claims as amended represent a narrower embodiment of the applicants originally claimed invention (applicants reserve the right to pursue broader scope of the original claims in continuing application) and as such it is believed that the amended claims are now in condition for allowance or at the very least simplifies the issues for appeal.

Claims 27 and 34 have been amended to include the limitations of former claims 29 and 36 respectively which had been indicated to represent allowable subject matter by the examiner in the final rejection.

Claim 33 has been amended to address the examiner's objection.

(B) It is believed that no new matter has been entered.

(C) The amended claims represent a narrower embodiment of the applicants invention as claimed prior to the issuance of the examiner's final rejection and as such no new issues are raised which require further consideration or search.

(D) The amendment does not present any additional claims.

In view of the foregoing, Applicants respectfully request that the Examiner enter and consider the amendments above.

***Response to Objection***

It is believed that the amendment to claim 33 addresses the examiner's objection and that the objection can be withdrawn.

***35 U.S.C. 102(b) rejection***

Claims 27, 28, 34, 35 and 40-42 were rejected as being anticipated by Pulkkinen (U.S. Patent 4,695,188). In the interest of compact prosecution, claims 27 and 34 have been amended to include the limitations of claims 29 and 36 respectively which was indicated as being allowable and as such this rejection is rendered moot.

The applicants' reserve the right to pursue the scope of claims 27, 28, 34, 35 and 40-42 prior to the amendment in a divisional application as it is believed that Pulkkinen does not meet the "every element" and "in as complete a detail as the applicants' claim" standard for anticipation.

**35 U.S.C. 103(a) rejection**

Claims 26, 30-33 and 37-39 were rejected as being obvious over Pulkkinen (U.S. Patent 4,695,188) in view of Dischö et al. (WO 98/24738). With the amendment to claims 27 and 34, it is believed that the balance of this rejection now only applies to claim 26.

In the examiner's "Response to Arguments" regarding Pulkkinen, the examiner stated "The applicant alleges that the structure disclosed by Pulkkinen teaches to keep water in. The examiner fails to see such language in the Pulkkinen reference." The applicants' point out that the title of Pulkkinen's invention is "Lined Rock Cistern or Tunnel". The term "cistem" from The American College Dictionary (1967) is defined as "a reservoir, a tank, or vessel *for holding water or other liquid*." Providing further evidence that Pulkkinen's invention is directed toward keeping substances in rather than keeping them out is Pulkkinen's own admission on col. 2, lines 29-32 - "Applications of the present invention are pressurized stores of natural gas under pressure, aviation kerosene stores, grain silos and stores and pressure tanks for various toxic substances."

In addition, despite the examiner's recitation of *In re Fine* and *In re Jones*, there is no recitation of the examiner's motivation for combining the teachings of Dischö et al. with that of Pulkkinen which comes from the prior art or the state of the art itself, i.e. the motivational statement is a hindsight reconstruction by the examiner.

The standard establishing a *prima facie* case of obviousness requires a consideration of the invention and references as a whole and determine what would have been obvious to one of ordinary skill in the art at the time the invention was made having the references before him but without the applicants' claims to provide a roadmap. Simply put, if the applicants claims were not before one of ordinary skill in the art and the Pulkkinen and Dischö et al. references were placed before the artisan, what would have been the motivation or direction to combine the references to arrive at the applicants claims?

The applicants' position remains essentially unchanged from the position stated in the response

dated 8 September 2003 and for the sake of brevity, the arguments presented there are to be considered repeated here.

***Authorization for Examiner's Amendment***

Given the prior prosecution history of this application, applicants are wary of voluntarily canceling claims. However, if after consideration of the applicants' arguments for claim 26, claim 26 is the only claim which prevents allowability of the remaining claims, the applicants authorize the examiner to cancel claim 26 provided that the reasons for maintaining the rejection over claim 26 is provided in the "Reasons for Allowance".

***Closing***

Applicants believe that the foregoing constitutes a bona fide response to all outstanding objections and rejections.

Applicants also believe that this application is in condition for allowance. However, should any issue(s) of a minor nature remain, the Examiner is respectfully requested to telephone the undersigned at telephone number (212) 808-0700 so that the issue(s) might be promptly resolved.

Respectfully submitted,

Norris, McLaughlin & Marcus, P.A.

By: Howard C. Lee  
Howard C. Lee  
Reg. No. 48,104

220 East 42<sup>nd</sup> Street  
30<sup>th</sup> Floor  
New York, New York 10017  
(212) 808-0700

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I hereby certify that the foregoing Amendment under 37 CFR § 1.116 (10 pages total) is being facsimile transmitted to the United States Patent and Trademark Office on the date indicated below:

Date: 14 January 2004

By: Agata Glinska  
Agata Glinska

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## cirrhosis

**cirrhosis** (sir'ōs̄s). *n.* *Pathol.* a disease of the liver characterized by increase of connective tissue and alteration in gross and microscopic make-up. [*Gr.* *κίρρης* lawny + *σίσις* -osis] —**cirrhotic** (sir'ōt̄ik). *adj.*

**cirriped** (sir'ōp̄d̄). *n.* 1. any of the *Cirripedia*, an order or group of crustaceans, typically having slender legs bearing bristles used in gathering food. —*adj.* 2. having legs like cirri. 3. pertaining to the *Cirripedia*. [*Gr.* *κίρρης* = a. *Cirripedia*, pl.; *κίρρη* = *κίρρη* + *πέδιον* = footed]

**cirro-**, a combining form of *cirrus*.

**cirro-cumulus** (sir'ōkū'myōlūs). *n.* *Meteorol.* a cloud of high altitude, consisting of small fleecy balls or flakes, often in rows or ripples.

**cirro-** (sir'ō), *adj.* 1. having a *cirrus* or *cirri*. 2. resembling *cirri*. 3. *Meteorol.* of the nature of *cirrus* clouds. Also, *cirriform* (sir'ōfōrm).

**cirro-stratus** (sir'ōstrāt̄us). *n.* *Meteorol.* a high veiling cloud or sheet of haze, often giving rise to halos around the sun and moon, sometimes very thin and only slightly whitening the blue of the sky. —*adj.* cirro-strat̄ive, *adj.*

**cirrus** (sir'ōs̄). *n.*, *pl.* *cirri* (sir'ō'). 1. *Bat.* a tendril. 2. *Zool.* a sharp or slender appendage serving as a barbel, tentacle, foot, arm, etc. 3. *Meteorol.* a variety of cloud having a thin, fleecy or filamentous appearance, normally occurring at great altitudes and consisting of minute ice crystals. [*Gr.* *κίρρη*, curl, tuft, fringe]

**cirrōid** (sir'ōoid). *adj.* varicose; variform. [*Gr.* *κίρρη* *εἶδος*]

**cis-**, a prefix denoting relative nearness (this side of) applied to time as well as space, as in *cisalpina*. Cf. *cis-*.

**cis-alpine** (sīs'āl'pīn', -pīn'). *adj.* on this (the Roman or south) side of the Alps.

**cis-atlantic** (sīs'ātlān'tik'). *adj.* on this (the speaker's or writer's) side of the Atlantic.

**Ciscaucasia** (sīs'ākō'chā'sēə, -shēə). *n.* that part of the Caucasus north of the Caucasus Mountains.

**cis-cu** (sīs'ēk). *n.*, *pl.* *cises*, *cose*. U.S. any of several species of whelk of the genus *Leucosyrinx*, esp. *L. edulis*, the lake limpet of the Great Lakes. [*Gr.* *N Amer.* Ind.]

**cis-monotane** (sīs'mōnōtān'). *adj.* on this (esp. the north) side of the mountains.

**cis-pe-dane** (sīs'ēdān', -dān'). *adj.* on this (the Roman or south) side of the river Po. [*Gr.* *κίση* + *πέδη* *λαίδης* of the Po river]

**cis-solid** (sīs'sōlid). *Geom.* —*n.* a curve having a cusp at the origin and a point of inflection at infinity. —*adj.* 2. included between the concave sides of two intersecting curves (opposite to *transoid*). *cisoid angle* [*Gr.* *κίση* *σόλιδος* *γωνία*]

**Cistercian** (sīs'ter'shān). *n.* 1. a member of an order of monks and nuns founded in 1098 at Citeaux, near Dijon, France, under the rule of St. Benedict. —*adj.* 2. belonging to this order.

**Cistercian Rule**, an adaptation of the Benedictine Rule stressing contemplation and extreme asceticism.

**cistern** (sīs'tern). *n.* 1. a reservoir, tank, or vessel for holding water or other liquid. 2. *Archit.* a reservoir or receptacle of some natural fluid of the body. [*ME*, *t.* *cistern*, *cistern*, *cistern*, *cistern*]

**cit-**, *citation* (sīt'shān). *n.* 1. act of citing or quoting. 2. the quoting of a passage, book, actor, etc.; a reference to an authority or a precedent. 3. a passage cited; a quotation. 4. mention or enumeration. 5. call or summons, esp. to appear in court. 6. a document containing such a summons. 7. *Mil.* mention of a soldier or unit, in orders, usually for gallantry; *Presidential citation* [*ME* *citation*, *t.* *Cite* (*Fr.* *citer*)]. —*ci-ta-to-ry* (sīt'shōrē'). *adj.*

**cite** (sīt). *v.*, *v.* *cited*, *citing*. 1. to quote (a passage, book, author, etc.), esp. as an authority. 2. to mention in support, proof, or confirmation; refer to as an example. 3. to summon officially or authoritatively to appear in court. 4. to summon or call; rouse to action: *cited to the field of battle*. 5. to call to mind; mention: *citing my own praise*. 6. *Mil.* to mention (a soldier, unit, etc.) in orders, as for gallantry. [*late ME*, *t.* *Cite* (*Fr.* *citer*, *Fr.* *de* *citer*, *citer*, move, excite, call)] —*ci-ta-blo*, *ci-ta-blo*, *ci-ta-blo*, *ci-ta-blo*, *ci-ta-blo*, *ci-ta-blo*.

**cithara** (sīth'ārə). *n.* *Music.* [L form of *κιθάρα*]

**cith'er** (sīth'ēr). *n.* *Cittern*. Also, *cith'ren* (sīth'ren).

**citled** (sīt'ēd). *adj.* 1. occupied by a city or cities. 2. formed into or like a city.

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## Ciudad Juarez

**citled** (sīt'īld'). *adj.* having city habits, fashions, etc.

**citizen** (sīt'īzən, -zēn). *n.* 1. a member, native or naturalized, of a state or nation (as distinguished from alien). 2. a person owing allegiance to a government and entitled to its protection. 3. an inhabitant of a city or town, esp. one entitled to its privileges or franchises. 4. an inhabitant of Germany. 5. a civilian (as distinguished from a soldier, police officer, etc.). [*ME* *citizēn*, *t.* *AF*, var. of *OF* *citezēn*, der. *cite* (*Fr.*)] —**citizen-ess** (sīt'īzən īz, -zēz). *n.* *fem.*

**citizen of the world**, a person who is concerned about all nations, not just his own.

**citizen-ry** (sīt'īzənē, -zē). *n.*, *pl.* *cit-ies*. citizens collectively.

**citizen-ship** (sīt'īzənshēp', -shēp'). *n.* the status of a citizen, with its rights and duties.

**citizen** (sīt'īzən, sīt'īzēn). *n.* citizen.

**citra-**, a prefix synonymous with *cis-* [*t.* *L.* *repr.* *cītrē*, *alv.*, and *prep.*, skin to fix. See *cis-*]

**cital** (sīt'īl). *n.* a liquid aldehyde,  $C_6H_5CHO$ , with a strong lemonlike odor, obtained from the oils of lemon, orange, etc., used in perfumery. [*t.* *citrus* (*it.*) + *aldehyde*]

**citate** (sīt'īt, sīt'ītū). *n.* *Chem.* a salt or ester of citric acid.

**citraceous** (sīt'īs̄ēs̄). *adj.* lemon-yellow; greenish-yellow. [*t.* *L.*: *n.* *citrus* of the *citron* tree]

**citicric acid** (sīt'ītīk'). *Chem.* an acid,  $C_6H_5CO_2H_2O$ , contained in many fruits, especially in limes and lemons. [*t.* *a.* *L* *citrus* *citron* tree + *-ic*]

**citrin** (sīt'īn). *n.* *Biochem.* vitamin P.

**citrine** (sīt'īn). *adj.* 1. pale-yellow; lemon-colored.

—*n.* 2. a pale-yellow variety of quartz. [*ME*, *L*: *F.* *citrin*, *der.* *L* *citrus* *citron* tree]

**citron** (sīt'īn). *n.* 1. a pale-yellow fruit resembling the lemon but larger and with thicker rind, borne by a small tree or large bush. *Citrus medica*, allied to the lemon and lime. 2. the tree itself. 3. the rind of the fruit, candied or preserved. [*t.* *F.* *t.* *L.*: *m.* *citrons*, *der.* *L* *citrus* *citron* tree]

**citronellia** (sīt'īnēlē'ē). *n.* a fragrant grass, *Andropogon nardus*, of southern Asia, cultivated as the source of an oil (citronella oil); used in making liniment, perfume, and soap. [*t.* *NL*; named from its citronlike odor]

**citronella** (sīt'īnēlā'ē). *n.* a colorless, liquid aldehyde,  $C_9H_8CHO$ , found in essential oils, and used as a flavoring agent and in the perfume industry.

**citron melon**, *U.S.* a round, hard-skinned watermelon, *Citrullus vulgaris*, var. *citratus*, used for preserving.

**citron wood**, 1. the wood of the citron. 2. the wood of the sandalwood.

**citrus** (sīt'īs̄). *n.* 1. any tree or shrub of the numerous genus *Citrus*, which includes the citron, lemon, lime, orange, grapefruit, etc. —*adj.* 2. Also, *citrus*. of or pertaining to such trees or shrubs.

**citrum** (sīt'ūm). *n.* an old musical instrument, related to the guitar, having a flat, pear-shaped soundbox and wire strings. Also, *cithera*, *cittern*, *cittara*. [*t.* *L* *cithara* *cithara* and *cittern*]

**city** (sīt'ē). *n.*, *pl.* *cities*. 1. a large or important town. 2. *U.S.* an incorporated municipality, usually governed by a mayor and a board of aldermen or councilmen. 3. *Comme.* a municipality of high rank, usually based on population.

4. *Brit.* borough, usually the seat of a bishop, upon which the dignity of the title has been conferred by the Crown. 5. *the City*, the part of London, England, in which the commercial and financial interests are chiefly centered. 6. *city-state*, *t.* the inhabitants of a city collectively. [*ME* *citē*, *t.* *OY*, g. *L* *civitas* citizenship, the state, a city.] See *community*.

**city editor**, *U.S.* the editor in charge of local news.

2. *Brit.* the editor in charge of the financial and commercial news.

**city father**, one of the officials and prominent citizens of a city.

**city hall**, the administration building of a city government.

**city man**, *Brit.* a flaneur; a person employed in the banking establishments of the City (def. 6). Also, *City man*.

**city manager**, a person not publicly elected but appointed by a city council to manage a city.

**City of God**, *hymn*.

**City of Seven Hills**, *Rome*.

**city planning**, public control of the physical development of a city, by means of a plan regulating street layout, locations of buildings, etc.

**city-state** (sīt'īstāt'). *n.* a sovereign state consisting of an autonomous city with its dependencies.

**Ciudad Bolívar** (sūdād' bōlē'vār), a city in E Venezuela; a port on the Orinoco. 31,000 (1950).

**Ciudad Juárez** (sūdād' hōō'ārēz), a city in N Mexico, across the Rio Grande from El Paso, Texas. 121,912 (est. 1951).

b., blood of, blended; c., cognate with; d., distinct, dialectal; der., derived from; f., formed from; g., going back to; m., modification of; r., replacing; u., stem of; t., taken from; v., perhaps. See the full key on inside cover.



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